



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

07-21-06

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California Water Service Company (U 60-W), for Authority to Increase Rates Charged for Water Service in the Antelope Valley District by \$437,218 or 36.94% in Fiscal Year 2006-2007; by \$145,000 or 8.94% in Fiscal Year 2007-2008; and by \$145,000 or 8.21% in Fiscal Year 2008-2009.

Application 05-08-006

And Related Matters

Application 05-08-007

Application 05-08-008

Application 05-08-009

Application 05-08-010

Application 05-08-011

Application 05-08-012

Application 05-08-013

(Filed August 8, 2005)

**RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES
TO THE MOTION OF CALIFORNIA WATER SERVICE COMPANY
TO SET EFFECTIVE DATE FOR INTERIM RATES PURSUANT
TO SECTION 455.2 OF THE PUBLIC UTILITIES CODE**

Pursuant to Rule 45 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission) the Division of Ratepayer Advocates (DRA) files this Response to the Motion of California Water Service Company (CWS) seeking interim rates.

DRA does not categorically oppose CWS's request but does have concerns about the implementation of the request. Specifically: not every districts at issue meets the public interest test; the retroactivity of the final rates must include the Rate Support Fund

proposal (if adopted); an interim rate decision must not delay the final decision; CWS requests an illegal effective date for interim rates; and, if Advice Letter 1778 is granted it may destroy the CWS's stated need for interim rates in this proceeding.

I. SOME DISTRICTS SHOULD HAVE INTERIM RATES LESS THAN THE RATE OF INFLATION AND ALL ASPECTS OF THE FINAL DECISION'S RATES MUST BE RETROACTIVE

DRA acknowledges CWS's ability to request interim rates under Public Utilities Code §455.2 and D.04-06-018 (the Rate Case Plan Decision). Such a request must be justified by the utility making a "substantial showing in the application supporting a rate increase at least equal to the rate of inflation." (See D.04-06-018, p.*29.) Furthermore, the Commission must determine if interim rates are in the public interest and if the delay in issuing a final decision was due to actions of the utility. (See *id.* at *30.) In discussing the public interest standard, the Commission has stated that interim rates are disfavored because the retroactive adjustment has current customers paying costs associated with past service, and such subsidies are contrary to cost-based ratemaking policy adopted by the Legislature in §701.10. (See *id.* at *32.)

In the case at hand, there are eight districts with pending rate increase. However, a number of districts are facing rate increases below the 4.2% estimated rate of inflation. (Compare Proposed Decision (PD), with CWS Motion for Interim Rates, p.5.) Pursuant to the PD: the Bear Gulch District will have an increase of 2.1%; Dominguez-South Bay District will have an increase of 3.2%; the Hermosa-Redondo District will have an increase of 1.4%; and the Palos Verdes District will have an increase of 3.4%. (See PD, p.5, Table 1.)

It is contrary to the public interest to approve interim rates that are higher than the PD's rates, and the Commission has authority to set interim rates lower than the rate of inflation. (See D.04-06-018, p.*2.) While the *de minimus* rate increase in many of these districts actually merits no interim rate, unfortunately, separating out these districts is not an option if the final decision adopts the parties' Rate Support Fund (RSF) proposal.

The RSF would create a surcharge on all 24 districts of CWS to subsidize three high costs districts. (See Joint Motion of CWS and DRA to Approve Stipulation Concerning Rate Base Equalization Account, p.4.) For districts that do not receive interim rates, it is impossible to apply the RSF retroactively. As a result, for the interim rate time period the RSF subsidy would be under funded and/or require an additional subsidy on the remaining districts to cover other districts' share.

It is imperative that retroactive rates created by the interim rate request include all aspects of the final rates adopted including any and all ratepayer relief actions. The public interest rationale for the RSF is equally present during and after the interim rate period. Moreover, the Commission has repeatedly stated interim rates must be subject to refund and will be adjusted up or down consistent with the final rates adopted. (See, e.g., D.05-02-007, p.*2; D.05-03-017, p.*3.)

In short, if interim rates are granted, then the interim rates for the Bear Gulch, Dominguez, Hermosa-Redondo, and Palos Verdes districts should be limited to no more than the increase granted in the PD. This would trigger the retroactivity of the RSF to these districts without granting an unsupportable interim rate.

II. AN INTERIM RATE DECISION MUST NOT DELAY THE FINAL DECISION

The PD for the underlying proceeding was issued on July 21, 2006. While it is true that the final rates will not be active by the beginning of the first test year (July 1, 2006), there should not be a substantial delay. The Commission has previously found that a short delay in issuing final rates is a factor in finding that it is against the public interest to issue interim rates.

In D.05-07-022, the Commission stated,

We have determined that adopting interim rates is not appropriate. First, we note that this matter will come before the Commission for its consideration only a short time after July 1, 2005; further, the delay past July 1 is largely a result of the need to extend the submittal date. Second, preparation and review of an interim rate decision would have consumed

additional resources and might have delayed adoption of final rates under the Settlement. Third, an interim rate increase would have been inappropriate in some districts, and confusing to ratepayers in all districts to the extent that interim and final rates adjustments would follow in rapid succession. (D.05-07-022, p.*9.)

In denying a rehearing of D.05-07-022, the Commission reaffirmed that preparation and review of an interim rate decision would have consumed additional resources and might have delayed adoption of final rates and that it would be confusing to ratepayers to have interim and final rates follow in rapid succession. (See D.05-11-032, pp.*11-13.)

DRA has similar concerns in this proceeding. Interim and final rates will follow in quick succession creating rate fatigue and substantial confusion for ratepayers. Moreover, as CWS points out in its motion there are complex and important issues in this proceeding. (See CWS Motion for Interim Rates, p.7.) The process of fostering interim rate relief cannot be the basis for delaying action on the final decision.

III. INTERIM RATES CANNOT BE RETROACTIVE RATEMAKING

Furthermore, CWS requests an illegal effective date for interim rates. CWS's Motion requests an effective date of its Motion – July 6, 2006. (See CWS Motion for Interim Rates, p.1.) Any interim rates granted must be effective *no earlier* than the date of the decision granting interim rates. In D.05-02-007, the Commission stated, “[a]s we stated in Cal-Am’s last GRC decision, the Commission cannot grant an interim rate increase retroactively.” (See D.05-02-007, *15; see also D.05-12-024, (granting interim rates effective at a future date); and D.05-03-002 (granting interim rates prior to the decision date when the utility requested and the Administrative Law Judge (ALJ) approved interim rates prior to the first test year but the final decision omitted a reaffirmation of the ALJ ruling).) The rule against retroactive ratemaking is a long standing principle of this Commission and should not be overturned lightly. CWS should have filed its Motion well in advance of the first test day of the test year, as it has done in previous cases. (See D.04-09-038 (interim rate request motion filed February 2, 2004,

ALJ granted March 2, 2004, first day of first test year July 1, 2004).); D.05-07-022 (interim rate request motion April 2, 2005, first day of first test year July 1, 2005, motion ultimately denied).)

IV. THIS INTERIM RATE REQUEST SHOULD BE ANALYZED IN CONJUNCTION WITH CWS'S ADVICE LETTER FILING FOR A MEMORANDUM ACCOUNT

Lastly, it is important that the Commission recognize that CWS has also filed an advice letter for memorandum account treatment regarding the final revenue requirement adopted in this proceeding from August 7, 2006 to the effective date of the final decision. (See Advice Letter 1778.) DRA will not respond to that request here but does have concerns about the need for both interim rates and memorandum accounts and how each request affects the public interest review undertaking in the opposing proceeding. CWS states that “[g]ranting this motion advances this [public] interest because it fairly balances Cal Water’s opportunity to earn a reasonable rate of return against the needs of consumers for safe drinking water at reasonable rates.” (See CWS Motion for Interim Rates, p.7.) If Advice Letter 1778 is granted then CWS’s opportunity to earn a reasonable rate of return and its need to obtain revenues in order to deliver safe drinking water is ensured and interim rates are not necessary.

V. CONCLUSION

For the above reasons the Commission should fully review the public interest in granting interim rates. Furthermore, if interim rates are granted they should be set below the amount granted in the PD or the level of inflation (which ever is lower) and the retroactivity of the final rates must include all aspects of the final rate design, including

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the RSF proposal. Additionally, the implementation date for any interim rates must be no earlier than the date of the Commission decision granting such rates.

Respectfully submitted,

/s/ JASON REIGER

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July 21, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **RESPONSE OF THE DIVISION OF RATEPAYER ADVOCATES TO THE MOTION OF CALIFORNIA WATER SERVICE COMPANY TO SET EFFECTIVE DATE FOR INTERIM RATES PURSUANT TO SECTION 455.2 OF THE PUBLIC UTILITIES CODE** in **A.05-08-006** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to an e-mail message to all known parties of record to this proceeding who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on July 21, 2006 at San Francisco, California.

/s/ PERRINE D. SALARIOS
Perrine D. Salariosa

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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